or free medical care by a person sustaining injuries while a passenger on a common carrier, as in the case of *Sainsbury* v. *Pennsylvania Greyhound Lines, Inc.*, 183 F. 2d 548 (4 Cir. 1950); and, finally, a case involving the application of Rule 52 (a) of the Federal Rules of Civil Procedure regarding the duty of the trial court to find the facts specially and state separately its conclusions of law therein, as in the case of *Kweskin* v. *Finkelstein*, 223 F. 2d 677 (7 Cir. 1955).

Not one of the cases cited above, or any of the others cited in the petitioner's petition, has even the remotest tendency to show a conflict between the decision in the instant case and the decisions of other circuits. None has any bearing on a violation of Regulation T of the Federal Reserve Board, as alleged here. It is respectfully submitted that, when Rule 19 of this court refers to a decision by a Court of Appeals which is "in conflict with the decisions of another court of appeals on the same matter," it means just that, and not something else. It certainly does not mean a vague and indefinite reference to a principle of law applied to an entirely different set of facts bearing no resemblance to the facts on which a review is being sought in the Supreme Court by the petitioner. Hence it is respectfully submitted that, on this basis, the petitioner's writ of certiorari should be denied.

3. THE PETITIONER HAS FAILED TO SHOW THAT THE COURT OF APPEALS FOR THE FIRST CIRCUIT HAS DECIDED ANY SUBSTANTIAL FEDERAL QUESTION WHICH MERITS CONSIDERATION OF THE SUPREME COURT OF THE UNITED STATES.

If we strip this petition of all of its excess verbiage and view it in the light of the record, upon which review in the Supreme Court must necessarily be based, it is submitted

that it is entirely lacking in merit. The complaint in this case basically alleged a common-law conspiracy to which the respondents were parties, and other wrongful conduct by the respondents. As to the conspiracy, the District Court found that there was none, and the Court of Appeals, on page 4 of its opinion, sustained the finding of the District Court with this language:

> "In the court below and upon this appeal the plaintiff has attempted at great length to show that she has been victimized by a fraudulent and conspiratorial scheme in which Homsey and the defendants joined, but the record does not substantiate this claim."

As to any other alleged conduct of the respondents, we need go no further than to cite to this court the following paragraph of the District Court's order of June 3, 1965, which reads as follows:

> "I find as a fact that the defendants did not by their acts or omissions, verbal or otherwise, induce or cause or lead the plaintiff to enter into the transaction of which she complains in this case. I find as a fact that defendant did not cause any injury to plaintiff, because I find that nothing said or done by defendants was in fact relied upon in any way, shape or manner by the plaintiff who has been found by the court in the opinion previously filed to have been a joint venturer with Homsey and to have voluntarily entered into the transaction complained of in reliance of her prior dealings with Homsey, for which it has already been ruled that defendants were not responsible. I further find that defendants did not violate any affirmative duty of disclosure owing to plaintiff."

The sole question presented to this court on the basis of the record in this case is whether the respondents violated the Securities Exchange Act of 1934 (15 U.S.C. § 78 *et seq.*), by being in some manner an aider and abettor of a broker's alleged violation of his duty as a broker.

Under the provisions of this Act, the Federal Reserve Board was empowered to regulate the extension of credit in connection with the sale of securities. Regulation T, promulgated by the Board, regulated brokers; Regulation U regulated banks. The sole ground of Federal jurisdiction lies in an allegation that these regulations were violated by the respondents. Title 15 U.S.C. § 78c (b) provides that in such event the petitioner might have a remedy. However, the District Court ruled, and the Court of Appeals upheld the ruling, that the respondents did not violate the Securities Exchange Act. Since they were not brokers, they could not violate Regulation T; since they were not a bank, they could not violate Regulation U. In the only case cited by the petitioner which has any bearing on the instant case, *Remar* v. *Clayton Securities Corp.* (D. Mass. 1949), 81 F. Supp. 1014, the defendant broker arranged for the extension of credit by a *bank* to the plaintiff. Hence the *loan itself* was within the category of credit transactions prohibited by the Federal Reserve Board in Regulation U. The respondents here, however, were not a bank, nor were they in *any classification of lenders* whose lending under such circumstances had been proscribed by any rule or regulation. The extension of credit by the respondents here was therefore lawful, and there is nothing in the unsupported statement of the petitioner on page 8 of her brief that should impel the Supreme Court to rewrite Regulation T or U, or to extend them by judicial construction. The Federal Reserve Board cannot be said to be unaware of the existence and operations of persons

who fall into the category of factors—such as the respondents in the instant case. This follows from the fact that, while the Federal Reserve Board has made factors subject to the provisions of its reporting regulations, it has not seen fit to make them subject to its regulations restricting loans. See Federal Reserve Board Regulation U, § 221.3 (j), which reads as follows:

> "Every bank and every person engaged in the business of extending credit, who in the ordinary course of business extended credit for the purpose of purchasing or carrying securities registered on a national securities exchange, shall make such reports as the Board of Governors of the Federal Reserve System may require. . . ."

Since the Federal Reserve Board has not regulated the type of loan that was made in this case, there can be no violation of Regulation T or U, or any other rule promulgated by the appropriate Federal regulatory agency; therefore there is no basis for the grant of a writ of certiorari.

Finally, although the record in this case is replete with evidence that the petitioner and her broker, who was her principal witness at the trial, were engaged in a joint venture—a fact that both the District Court and the Court of Appeals readily accepted—the petition filed herein is strangely silent on this aspect of the case. The broker here was the petitioner's broker and adviser, and he had engaged in a similar joint venture with her at an earlier date. If any wrong were done to the petitioner, it was done by her broker and her joint adventurer, for whose conduct the respondents are not responsible, either legally or morally. In such circumstances the petitioner cannot prevail in her petition for a writ of certiorari.

Conclusion.

For the reasons set forth above, the petition for a writ of certiorari should be denied.

Respectfully submitted,

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